

**PLANNING BOARD MEETING MINUTES
TUESDAY, APRIL 26, 2005**

MEMBERS PRESENT: Jeremy Daly, Chair
Paula Caron
Jay Cruz
John DiPasquale
Nancy Maynard
Dean Tran
Yvette Cooks (associate member)
Paul Fontaine, Jr. (associate member)

MEMBERS ABSENT Mike Hurley

PLANNING OFFICE: David Streb
Mike O'Hara

Call to Order

Meeting called to order at 6:00 p.m. in the Veterans' Room, First Floor, City Hall.

Communications

Board asked if a copy of the Zoning Board of Appeals minutes for the original denial of the repetitive petition matter on the agenda was available. Mr. Streb responded that he wasn't aware of their request, and that it wasn't available for this meeting.

MRPC minutes, agendas
Hearing notices from abutting towns

Meeting Minutes

Motion made and seconded to approve minutes of the March 15th meeting.
Vote unanimous to approve.

ANR plans

The Board reviewed and endorsed the following "ANR" plans:

Desgroseilliers - Stickney Rd.

Resubdivision -- Existing parcel to be split, conveyed to & combined with adjacent parcels, to turn three parcels into two. Mr. Daly expressed hesitation about signing the ANR, as he thought that the plan showed a subdivision. Mr. Streb stated that the plan was clearly marked that the resulting lots were not building lots.

Walton St., Seneca St., - Anderson

Existing vacant parcel (formerly # 304 Walton St.) to be split into three pieces and combined with abutting parcels.

McSweeney & Martineau, Townsend St.

Existing 10.2 acre parcel owned by Ms. Membrino to be split into five conforming lots, including one around dwelling at # 620 Townsend Street and a "rear lot".

Deloge Heights, Inc., Tibbett Circle

Resubdivision -- adjustment of property line between Lots 55B & 56B. House under construction on Lot 56B is too close to side property line.

Fontaine Realty Trust, South St.

Parcel at 615 South St to be split into an additional conforming RA-2 lot.

The following plan was denied an endorsement:

Testagrossa, Oakland St.

Two proposed 10,000 sq. ft. lots on Oakland St

Plan denied endorsement by Board because of inadequate access to the lots.

PUBLIC HEARINGS

Preliminary Subdivision plan - Matson Homes, off Westminster Hill Rd.

Wes Flis, Whitman & Bingham and Atty. George Watts presented plan. Applicant Ken Matson was not present.

Atty. Watts: Access to site is proposed through Brierwood Drive and a 50-foot right of way from Hartland Avenue. Brierwood Drive was shown on a preliminary subdivision plan from the 1960s. Some lots were conveyed out through the ANR process long ago. Mr. Matson has significant experience in subdivisions in West Fitchburg. 47 single-family homes proposed -- all comply with zoning. Applicant is looking for two waivers: one for internal sidewalks on both sides of the road, and rounding at one lot at corner of proposed subdivision road & Westminster Hill Road. They will submit a Development Impact Report with the Definitive Plan.

Mr. DiPasquale: Will he phase the work? He expressed concerned about erosion.

Mr. Watts: Having represented Mr. Mattson for years, he promised that we won't have another Brickyard Hill.

Ms. Caron expressed concerns about the topography of the site, and stated that there are too many lots.

Mr. DiPasquale: Is there a lot of ledge? Mr. Flis: We're not sure.

Ms. Cooks: what's the reason for the radius waiver? Answer: For access from Westminster Hill Rd.

Mr. Fontaine: Info on size & style of dwellings?

Will be all 3-BR, approx. 2,000-2,200 sq. ft.

Mr. Streb: Why not access site from the 50-foot wide strip fronting on Colony Rd where there's good sight lines, instead of making everyone travel on a cul-de-sac road with 8% grades?

Mr. Watts: They'd have to request a rounding waiver at that location.

Mr. Daly opened up meeting to public comment:

Mary Gamache: concerned about water pressure. They've had pressure problems for years.

Councillor Kaddy: keep in mind that it's unfair not to require sidewalks on both sides of the street.

Also, the lots sizes appear too small. Also, the rear lot is being created behind two abutters most affected by this project. Also, flooding at Brierwood Drive needs to be corrected prior to approval.

When Ken Matson built houses on Hemlock Drive, some were never tied into a sewer. Can Matson tie in 14 houses on Hemlock as part of this project?

Just up from this site 150 condos being built. If the road is blocked, police, fire & ambulance can't get to it. He's an advocate for opening Westminster Hill Road.

Brian Walker, 37 Hartland Ave. The cul-de-sac road (Hartland Ave.) exceeds the allowed grade, so you shouldn't put additional houses off of it.

Jean-Paul Downing, 19 Hartland Ave.: Matson told him he would build a road off Colony Rd. to access this site.

Brian Lawrence, 19 Brierwood Drive: Is not tied into city sewerage. He has a holding tank and a pump station. His PVC line is very shallow and he's concerned. He says there is a vernal pool across Brierwood Drive from his house. Mr. Streb asked him if he had attempted to have it certified, and he stated that he had not.

Mr. Daly attempted to summarize everybody's concerns:

Too many lots, access points, sidewalks on both sides of the subdivision street, water pressure, Westminster Hill Road needing to be opened to access from the southwest, and Hemlock Drive sewers.

A question arose whether the board would make a decision, and it was concluded that a revised preliminary plan that incorporated the Board's and the public's concerns would be presented for a decision.

Site Plan Review - 270 Airport Road, MSPCC offices

Wes Flis presented plan for offices at the rear of contractor's yard. He pointed out parking on the site.

Ms. Caron: how many parking spaces are needed? Answer - they were told 34 and that's the number they provided. The rear portion of the building was intended for warehouse space, but it's empty now. There is and will be no heavy equipment or construction equipment on site -- it's only their construction office

MSPCC are currently at 76 Summer Street and want to be closer to Route 2. There will be no further expansion of the building. The entire use of the building will be offices.

Mr. Cruz is concerned about parking. Applicant said they comply with parking standards. Public hearing was closed.

Motion made (Mr. Tran) & seconded (Ms. Maynard) to grant site plan approval. Vote 5-1 to approve.

Repetitive Petition, Jacques, 311 Daniels St., Special Permit (photography studio & residential use)

Members present & voting: Caron, Cruz, Daly, DiPasquale, Maynard, Tran (6)

Mr. Daly asked if we had a copy of the ZBA minutes of the original hearing.

Ann Craigen: She attended the Zoning Board meeting at which the proposal was denied previously, and the primary issue was parking.

Ray & Ann Craigen – concerned about parking & plowing.

The house to the rear was sold so it isn't available for parking. She showed some of the Board members pictures.

Mr. Jacques stated that the previous owner used the garage area for storage. He had three photographers working for him. Mr. Jacques is by himself. He just wants to live in the unit. The two garages were previously used for storage, and he'll have the two garages available for parking.

Mr. Tran: feels we should allow it to go back to the ZBA.

Ms. Cooks does too.

Mr. Cruz has a problem with it. He's familiar with the ZBA's caseload.

Motion made (Ms. Caron) and seconded (Mr. DiPasquale) to allow petition to go forward to the Board of Appeals. Vote 5-1 in favor of allowing applicant to re-apply. However, since statute (MGL Ch. 40A, Sec. 16) reads "*all but one of the members of the Planning Board*" must consent to allow the repetitive petition to go forward, it was interpreted that all but one of the members of the full membership of the Board (or six members) would have needed to vote in the affirmative to allow the petition to go forward.

So vote failed.

Staff will check whether applicant can re-apply, and whether alternate members can vote on this matter.

Special Permit - Planned Unit Development, Linda St., Esposito

Members present & voting: Caron, Cruz, Daly, DiPasquale, Maynard, Tran, Cooks (associate member) (7)

Ron Oliva of Hamway Engineering presented plan, and introduced Phil and Colleen Esposito.

Existing buildings will be demolished. Each unit will have a dry well for roof runoff. Driveway will have a leaching area for run-off. Parcel has 195 feet frontage.

Ms. Caron: concerned about rear lot setback.

Mr. Oliva: There will be six-foot solid white vinyl fence around the perimeter of the site.

Mr. Esposito said he talked to all but two abutters. People there were for it, according to him.

Mr. Daly read from the PUD section of Ordinance. He asked where the open space was.

Mr. Oliva pointed to the undeveloped areas on the site plan.

Public Comment.

Eileen Shannon, what's the setback at the front? Response: 20 feet. Shannon: Isn't it supposed to be 40 feet? Response: The Board has the authority to modify those dimensional requirements as part of the approval process.

Armand Gallant, 337 Theresa St. -- Site has been an eyesore for years. This is a blessing.

Mrs. Spyropoulos, 362 Theresa St. -- is for the plan.

Paul Marcoulier, 372 Theresa St. -- is for the plan.

Joseph Labell -- this is beautiful

M/M Morey, Linda St. -- they are in favor.

Councillor Kaddy: here's a developer who did his homework – talked to the neighbors and solicited their support.

Mr. Streb: how many units could be built conventionally? Answer: Two.

Mr. Cruz: would you consider four units instead?

Mr. Esposito: not feasible

There will be a fence along the rear and the side. There will be a small amount of clearing for a patio. All units will be handicapped accessible.

Hearing closed.

Members voting: 6 permanent members and one associate (Yvette).

Motion made (Ms. Maynard) and seconded (Mr. Tran) to approve Special Permit subject to:

- Onsite recharge drywells.
- Single story ranch style in accordance with the drawing provided to staff for incorporation into the file.
- White vinyl fence along northern and easterly side.
- Submittal of Master Deed to Planning Board.
- (Paula Caron prepared a list for incorporation)

Motion made and seconded to grant Special Permit. Vote unanimous (7-0) to approve.

Proposed Zoning amendments

1) increase lot size & lot frontage in Watershed Protection Overlay district

2) six-month moratorium on new septic systems in Watershed Protection Overlay district

Members present & voting: Caron, Cruz, Daly, DiPasquale, Maynard, Tran

Hearing re-opened 8:25 p.m.

Mr. Streb showed a GIS map of parcels that may be affected by the proposed changes. The map showed those parcels larger than 130,000 square feet and with frontage greater than 350 feet. He cautioned that the map doesn't account for a change in the rear lot section of the ordinance. He estimated that it contained 45 parcels.

Mr. Fontaine mentioned a spreadsheet that assessors had prepared.

Councillor Kaddy: is Chapter 61 land permanently protected? Chris Specht commented from the audience that if you pay back the back taxes, the City does not have a right of first refusal.

Need to ask City Solicitor whether the city always has a right of first refusal for land under Chapter 61 protection.

Kaddy: discussed problem with Benjamin Builders site, about the siltation from the area. Can you imagine if that development was near our reservoir? The reason for the petition is to protect out water supply.

Councilor Hay: asked Board to give consideration to the many aspects before us. Certainly, water is important. But individual property owners have the right to develop their property safely & responsibly.

Councilor DiNatale wished to reserve comment until after the public hearing.

Mike Donnelly also chose to wait to comment.

Ralph Baker, 840 Ashby West Road. Moved there in July. Owns Terra-Therm. Has PhD in soil science and is a registered sanitarian. His property is marked in green on the plan (affected by the proposed change). He feels that the city's stewardship of watershed has suffered from benign neglect. Lots of trash in the area. Board must use its power to protect the resource. Referred to proposed development in Shattuck Road area. Amazed that any lots were created, given the water table. Landowner should be allowed moderate development, but not to the extent he sees.

Mr. Daly explained they have no choice but to sign ANR plans that show lots on a public way. He also mentioned PUD and flexible development.

Mr. Fontaine: who's to say 1½ acres isn't enough? Why 3 acres? He doesn't see the need for 3 acre zoning. He referenced a meeting he attended about low impact development at which the size of the lot doesn't necessarily matter.

Mr. Baker: He thinks density does matter. He thinks a moratorium would be a good idea.

Carl Fandreyer, Ashby West Rd. Said that the watershed boundary was arbitrary.

Mr. Streb: explained that information was obtained from Mass GIS but the boundary in fact was changed in his area due to Mr. Fandreyer's concerns several year's ago.

Mr. Fandreyer: 200 feet and 2 acres would be better. He has no argument with the sewer moratorium but the dimensional changes are too much.

Mr. DiPasquale: How did you come up with the numbers?

Mr. Kaddy: sitting with planning, conservation and other people. The idea was to protect the water from septic systems and road runoff.

Bob Grassa, Professional Land Surveyor: He believes you should regulate property not restrict it.

Mr. Cruz: he's not convinced that that we have the right proposal in front of us. We need to consider a moratorium, water supply protection controls. Establish a water supply protection committee. Go after acquisition grants. These amendments aren't going to help us. We could pre-treatments in septic systems

Rick Healy: He's concerned about protecting the water. Title V already protects the city, as do wetland protection laws. We are already 1½ time the lot size recommended by DEP. Do we really want to see developers put in 300 feet road frontage (e.g. extra roads)?

Leonard Amburgey, 777 Scott Rd.: said the watershed line on his property is incorrect, and if we implement the frontage rule we eliminate his right to develop homes for his two kids.

Chris Specht: has anyone considered a moratorium on new road construction? Maybe we shouldn't consider lot size or frontage, just prohibit new roads.

Mr. Daly - cluster development is better than spreading out developments.

Paul Fontaine, Sr.: If we have authority on using the site why don't we require site plan review in the watershed overlay district. Moratoriums are a slippery slope. They create negative publicity.

Mike Donnelly: The petition was to reduce density. Everyone lost rights when the city implemented zoning. He's a victim of zoning. When we rely on this board we get 16 houses in the watershed. We had 30-60 days to come up with scientific data. What did you come up with?

Ken Savage, 105 Tibbett Circle: Don't forget to pay attention to the southern watershed. There are issues down there also.

Ron Legros, 1747 Rindge Rd.: There's enough rules & regulations right now on the books. The city cut two trenches near a brook and allowed Rindge Road runoff to go right into the tributary.

Phil Larkin, 1070 Ashby West Rd.: These petitions are a result of Dawn Tully's development. The city is dumping sand right near a brook.

Councillor Kaddy: Don't let the 300 feet and the 3 acres affect you. The intent of the petition is to get people to the table and come up with a solution to protecting our water supply.

Pam George, 810 Ashby West Rd --- The city has to figure out a way to buy land. Also, the situation doesn't lend itself to cookie-cutter approach.

Public hearing was closed at 9:50 p.m.

Board discussed matter and decided not to make a recommendation at this time.

OTHER BUSINESS

Arden Mills PUD - proposed revisions

Chris Deloge, Dick Madonia.

Letter submitted by Mr. Deloge dated 4-26-05 requesting amending two conditions of Arden Mill special permit to allow the developer to perform the off-site traffic improvements, and to do the sewer and sanitary improvements with their own construction people.

Mr. Madonia - doesn't want to wait until end of project to have traffic & sewer problems arise.

Planning Board agrees with suggested changes, provided they're approved by DPW.

Q: how to estimate value of work done by applicant? Review by DPW-Engineering.

Mr. Madonia: They will pay for traffic engineering improvements, even if valued over \$100,000, but if the improvements ending up costing more than \$100,000 they'll still pay for them.

Motion made (Ms. Caron) and seconded (Ms. Maynard) to approve requested modifications to Special Permit. Vote unanimous in favor.

concept plan - Gelinas, Pearl Hill Rd.

Gary Shepard, David E. Ross & Atty. Gelinas presented concept plans for 50 acre parcel at 267 Pearl Hill Rd. on public water & sewer. Four ANR lots possible, 16 subdivision lots possible. They would like to do a flexible development - 8 lots. Advantages -- more open space (77% of parcel), no new road, less density.

They would need waivers of flexible development standards:

- (1) Allow reduced frontage on an existing road, not a subdivision road
- (2) Reduce 100-foot buffer zone on perimeter.

Mr. Shepard showed enlarged topo plan to show how proposal was not out of character with existing density, or separation between houses.

Mr. Cruz: Low impact development possible?

Shepard: yes, roof drains recharge on site. No detention basin.

Abutter on Pearl Hill Rd (name?): culvert has been paved over -- needs drainage improvements

Shepard: they're willing to look at possible drainage problems in area.

Gelinas will be selling off the lots, not developing them.

Planning Board was generally OK w/ requested waivers. OK to go to next step of submitting plan & special permit application.

concept plan - Bilotta, Milton St., Smith St.

David Bilotta, Chris Deloge presented several concept plans for 1.1 ac. parcel between Smith & Gale (paper) streets (map 110-3-0) Access would be via Milton St. Since present access not there, will have to improve unimproved portions of street. Proposing Option "C" - 7units
Proposed one-story dwellings. Not H/C-accessible, but easier access.

Ms. Caron: Does it meet the minimum 50,000 sq. ft. requirement for PUDs? Yes.

Motion made & seconded to adjourn the meeting. Vote unanimous.

Meeting adjourned: 10:45 p.m.

Next meeting: MAY 17, 2005

Approved: May 17, 2005